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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,060	07/06/2001	Travis J. Muhlestein	MSFT115921	7821
26389	7590	07/20/2006	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC			VU, TUAN A	
1420 FIFTH AVENUE			ART UNIT	
SUITE 2800			PAPER NUMBER	
SEATTLE, WA 98101-2347			2193	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/900,060	MUHLESTEIN ET AL.	
	Examiner	Art Unit	
	Tuan A. Vu	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the Applicant's response filed 6/8/2006.

As indicated in Applicant's response, claims 1, 3-5, 9-13 have been amended. Claims 1, 3-17 are pending in the office action.

Claims Objections

2. Claims 7-8 are objected to because of the following informalities: the 'Claim 1 and 3-6' phrase needs to be readjusted to become 'claims 1 and 3-6' to enable correct grammatical accord for plural objects.

Claims 8 and 17 are objected to because of the following: the term recited as 'capable of (*apparatus ... capable of*)' needs to be readjusted (e.g. operable for, for performing) to mean a authentic usability, not a potentiality for a function; that is, the function of the apparatus would be perceived as idle, or never realized; because thus might lead to statutory subject matter type of rejection (emphasis added). It is also recommended that a computer being explicitly part of the apparatus claim(s) to put forth the tangible nature of apparatus being used to realize the computer method thus implicated from the base claims.

Appropriate correction is required

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 3-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Microsoft Corporation, "Microsoft Windows Management Instrumentation Scripting", April 1999, pp. 1-15 (hereinafter MSWMI).

As per claim 1, MSWMI discloses a computer-implemented method for providing access to instrumentation data from within a managed code runtime environment, the method comprising

providing an application written in a runtime-aware programming language (e.g. Scripting Object Model: pg. 5-11);

executing the application in a runtime environment having a runtime engine, wherein there is a defined contract of operation between the executing application and the runtime engine to delegate certain application tasks to the runtime engine that enable the runtime engine to service requests (e.g. **Windows Management Instrumentation Technology: Access to monitor, command, control any entity...underlying mechanism, API ... Interoperability ...providing and accessing management ...extend the information ...connect one or more sources of management information ...capture instrumentation, detailed queries** --pg. 1, bottom to pg. 2 , top) from the executing application at runtime;

including requests for instrumentation data representing management information about other applications and devices available outside the runtime environment (e.g. *to capture instrumentation data from device drivers kernel* ..- pg. 2, 5th bullet-top; *Performance Monitor Provider* – pg. 4, 4th bullet; **WMI Architecture Overview: using WMI APIs ... providers supply ... CIM object Manager with data from managed objects, handle requests ; interface between management applications and data providers ... common programming interface to Windows**

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Management Instrumentation, – pg.3, middle; Fig. 1, pg. 4; *WMI Providers data that is not available from the CIMOM ... forward to WMI Provider data and event notifications for managed objects* – top pg. 4; **Advantages of Using WMI Scripting: custom providers can ... cover vendor specific instrumentation (for system, applications, devices...), Extensible Providers instrumentation** – 3rd bullet, pg. 5);

receiving a request at the runtime engine from the executing application for instrumentation data available outside said runtime environments the request including

a path of an instrumentation data object (e.g. *SWbemObjectPath* – pg. 6, Features: Object Creation; *SWbemObjectPath* – bottom, pg. 7) for accessing the instrumentation data (e.g. pg. 2, 5th bullet-top; pg.3, middle; Fig. 1, pg. 4; top pg. 4),

options used to retrieve (e.g. *SWbemServices Object: Get, Delete, InstancesOf, ExecQuery, AssociatorsOf ...* pg. 7, middle; *GetObjectText_, SpawnInstance_*, pg. 9, middle) the instrumentation data object, and

an identification of a parent (e.g. *ParentNameSpace*, pg. 8, 3rd bullet)of the instrumentation data object;

transmitting the request for said instrumentation data to an instrumentation data source external to said runtime environment, receiving a response to said request from said instrumentation data source (e.g. *to capture instrumentation data from device drivers kernel ...* pg. 2-top, 5th bullet; **WMI Architecture Overview: using WMI APIs ... providers supply ... CIM object Manager with data from managed objects, handle requests ; interface between management applications and data providers ... common programming interface to Windows Management Instrumentation**, – pg.3, middle; Fig. 1, pg. 4; *WMI Providers data that is not*

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available from the CIMOM ... forward to WMI Provider data and event notifications for managed objects – top pg. 4);

converting said response to a format that is compatible with said runtime environment (**Windows Management Instrumentation Technology**: *supports the syntax of CIM, MOF, common programming interface, scripting support* - pg. 1, bottom – Note: WMI environment working in conjunction with providers via scripting, and API for retrieval of remote objects, while supporting syntax of all interfaces reads on converting to syntax compatible for the WMI);

responding to said request for instrumentation data with said converted response (Note: request for data using API and collecting data into a compatible form for the modeling/instrumentation application reads on responding to request for such instrumentation data).

As per claim 3, MSWMI discloses converting instrumentation data object to a management object that is compatible with said runtime environment (see claim 1; *Using WMI technology .. create ...applications that implement ... features such as displaying system information, generating ... inventory resources...processing events – pg. 3, Management Applications, bottom – Note: integrating data from request via API calls in order to integrate them for display in application via processing therein reads on converting requested data in runtime compatible form).*

As per claim 4, MSWMI discloses wherein said management object encapsulates properties of the instrumentation data object (e.g. Standard inheritable methods – pg. 3, top, 2nd bullet; **Features**: *Monikers, for encapsulating the location* - pg 6, middle) accessible through said instrumentation data source, including

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properties representing the path (e.g. Features: Object Creation, pg. 6; SWbemObjectPath – bottom, pg. 7) of the instrumentation data object for accessing the instrumentation data, the options used to retrieve (e.g. *SWbemServices Object: Get, Delete, InstancesOf, ExecQuery, AssociatorsOf* ... pg. 7, middle) the instrumentation data object and the identification of the parent (e.g. *ParentNameSpace*, pg. 8, 3rd bullet) of the instrumentation data object.

As per claims 5-6, MSWMI discloses wherein said response comprises an indication that an operation was unsuccessful and wherein converting said response to said format comprises generating a management exception object; said indication that an operation was successful comprises error codes (e.g. **Advantage of Using WMI Scripting**: 4th bullet: *built-in features ... exception* --pg. 5, middle; **Features: Error Handling** - pg 6, middle; **Asynchronous example**: *hResult, ErrorObject* – pg. 14, 2nd para; **SwbemLastError object**: *read-once semantics... cleared after reading* – pg. 9, bottom).

As per claim 7, MSWMI discloses a computer-readable medium comprising instructions which, when executed by a computer, cause the computer to perform the method of any one of claims 1 and 3-6 (e.g. Note: a computer system capable of supporting script, encapsulating of objects, API calls, binding object-oriented instances to a model, and display of instrumentation data or event processing as in claims 1, 3-6 reads on inherent computer readable medium for storing such software capabilities).

As per claim 8, MSWMI discloses a computer-controlled apparatus capable of performing the method of any one of claims 1 and 3-6 (see claim 7).

As per claim 9, MSWMI discloses a computer-implemented method for accessing instrumentation data from within a runtime environment, wherein the runtime environment provides a runtime engine that compiles an application encoded in a runtime-aware language into executable code (e.g. Scripting Object Model: pg. 5-11), the method comprising:

receiving a request from the application for instrumentation data representing management information about other applications and devices available outside the runtime environment (*to capture instrumentation data from device drivers kernel* ... pg. 2-top, 5th bullet; **WMI**

Architecture Overview: *using WMI APIs ... providers supply ... CIM object Manager with data from managed objects, handle requests ; interface between management applications and data providers ... common programming interface to Windows Management Instrumentation,* – pg.3, middle; Fig. 1, pg. 4; *WMI Providers data that is not available from the CIMOM ... forward to WMI Provider data and event notifications for managed objects* – top pg. 4,

the request comprising a path of an instrumentation data object for accessing said instrumentation data (e.g. Features: Object Creation, pg. 6; *SWbemObjectPath* – bottom, pg. 7), options used to retrieve (e.g. *SWbemServices Object: Get, Delete, InstancesOf, ExecQuery, AssociatorsOf* ... pg. 7, middle; *GetObjectText_, SpawnInstance_*, pg. 9, middle) the instrumentation data objects and a namespace (e.g. **SWbemServices object:** *object ...connection to a namespace* – pg. 7, middle; *ParentNameSpace*, pg. 8, 3rd bullet) of the instrumentation data object;

in response to said request, querying for said instrumentation data, using the path to said instrumentation data object for accessing said instrumentation data; determining whether said instrumentation data was successfully returned (**WMI Scripts Usage:** *Method Execution*,

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Queries, remote Access, pg. 11; **Asynchronous example: *hResult, ErrorObject*** – pg. 14, 2nd

para – Note: scripting with path parameters reads on using path to incorporate in the query effected via API calls); and

in response to determining that said instrumentation data was successfully returned, constructing said management object in the runtime environment and populating said management object (e.g. CIM Object Collection-*SwbemObjectSet*, pg 11 – Note: object set after collecting of data from remote access reads on populating CIM model; **Features: Object Creation, Collections, Direct Access**, pg. 6; *SwbemEventSource Object, SwbemNamedValueSet collection, SwbemObject*) with said instrumentation data.

As per claim 10, MSWMI discloses wherein constructing said management object in the runtime environment and populating said management object with said instrumentation data includes binding an instance of a management object class (e.g. **Features: Monikers** – pg. 6, middle) to said instrumentation data object for accessing said instrumentation data source.

As per claim 11, MSWMI discloses constructing a management scope object identifying the namespace (**SWbemServices object: *object ...connection to a namespace*** – pg. 7, middle; *ParentNameSpace*, pg. 8, 3rd bullet) associated with said instrumentation data object for accessing said instrumentation data.

As per claims 12-13, MSWMI discloses constructing a management path object identifying the path (**Features: Object Creation**, pg. 6; *SWbemObjectPath* – bottom, pg. 7), and specifying the options to retrieve (e.g. *SWbemServices Object: Get, Delete, InstancesOf, ExecQuery, AssociatorsOf ...* pg. 7, middle; *GetObjectText_, SpawnInstance_*, pg. 9, middle) said instrumentation data object for accessing said instrumentation data.

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As per claim 14, MSWMI discloses throwing a management exception object (Advantage of Using WMI Scripting: 4th bullet: *built-in features ... exception* --pg. 5, middle; Features: *Error Handling* - pg 6, middle; Asynchronous example: *hResult, ErrorObject* – pg. 14, 2nd para; *SwbemLastError* object: *read-once semantics... cleared after reading* – pg. 9, bottom) in response to determining that said instrumentation data was not successfully returned.

As per claim 15, MSWMI discloses wherein properties of said management object may be accessed utilizing an indexer (e.g. *SwbemNamedValueSet: ...indexing mechanism* – *SwbemNamedValueSet* collection, pg. 8).

As per claims 16-17, MSWMI discloses a computer-readable medium and computer-controlled apparatus capable of performing the method of any one of Claims 9-15 (refer to claims 7-8).

Response to Arguments

5. Applicant's arguments with respect to all claims as per response filed 6/8/2006 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (272) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)272-3719.

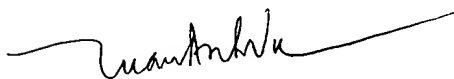
The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence - please consult Examiner before

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using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tuan A Vu
Patent Examiner,
Art Unit 2193
July 17, 2006